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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 PETER TSIMBALYUK,

10 Petitioner,

Case No. C13-2074-RSL-JPD

11 v.

12 ICE FIELD OFFICE DIRECTOR,

REPORT AND RECOMMENDATION

13 Respondent.

14 I. INTRODUCTION AND SUMMARY CONCLUSION

15 Petitioner Peter Tsimbalyuk has filed a *pro se* habeas corpus petition under 28 U.S.C. §
16 2241, seeking release from immigration custody or an individualized bond hearing. Dkt. 7.
17 Respondent moves to dismiss petitioner's habeas petition because after the petition was filed,
18 petitioner was released from immigration custody under an order of supervision. Dkts. 13, 13-2.
19 Because petitioner has been released from immigration custody, the Court recommends that his
20 habeas petition, Dkt. 7, be DENIED at moot, respondent's motion to dismiss, Dkt. 13, be
21 GRANTED, and the case be DISMISSED without prejudice.

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REPORT AND RECOMMENDATION - 1

1 II. DISCUSSION

2 Under 28 U.S.C. § 2241, a writ of habeas corpus “shall not extend to a prisoner unless . . .
3 [h]e is in custody in violation of the Constitution or laws or treaties of the United States.” 28
4 U.S.C. § 2241(c)(3). The “in custody” requirement is satisfied at the time the petition is filed.
5 *Spencer v. Kemna*, 523 U.S. 1, 7 (1998) (citations omitted). To maintain a habeas claim,
6 however, a petitioner must continue to have a personal stake in the outcome of the suit
7 throughout “all stages of federal judicial proceedings.” *United States v. Verdin*, 243 F.3d 1174,
8 1177 (9th Cir. 2001). At any stage of the proceedings, a petition may become moot “because it
9 no longer present[s] a case or controversy under Article III, § 2, of the Constitution.” *Spencer*,
10 523 U.S. at 7. “For a habeas petition to continue to present a live controversy after the
11 petitioner’s release . . . there must be some remaining ‘collateral consequence’ that may be
12 redressed by success on the petition.” *Abdala v. INS*, 488 F.3d 1061, 1064 (9th Cir. 2007)
13 (quoting *Spencer*, 523 U.S. at 7).


14 Here, petitioner was been given the relief sought in his habeas petition—release from
15 immigration custody—and, as such, there is no remaining collateral consequence that may be
16 redressed. *See id.* (“[W]here the grounds for habeas relief will not redress collateral
17 consequences, a habeas petition does not continue to present a live controversy once the
18 petitioner is released from custody.”); *Picrin-Peron v. Rison*, 930 F.2d 773, 776 (9th Cir. 1991)
19 (“By his petition for habeas corpus, Picrin-Peron has requested only release from custody.
20 Because he has been released, there is no further relief we can provide.”). Because the
21 requested relief is no longer available, the petition for writ of habeas corpus should be denied as
22 moot.

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1 III. CONCLUSION

2 For the foregoing reasons, the Court recommends that petitioner's habeas petition, Dkt. 7,
3 be DENIED at moot, respondent's motion to dismiss, Dkt. 13, be GRANTED, and the case be
4 DISMISSED without prejudice. A proposed Order accompanies this Report and
5 Recommendation.

6 DATED this 3rd day of February, 2014.

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8 JAMES P. DONOHUE
9 United States Magistrate Judge